

APPROVED MINUTES*
SUNNYVALE CITY COUNCIL
TUESDAY, APRIL 6, 2010

7 P.M. COUNCIL MEETING

CALL TO ORDER - Mayor Hamilton called the meeting to order in the Council Chambers.

SALUTE TO THE FLAG

ROLL CALL

PRESENT:

Mayor Melinda Hamilton
Vice Mayor Christopher Moylan
Councilmember Otto Lee
Councilmember Ron Swegles
Councilmember Anthony (Tony) Spitaleri
Councilmember David Whittum
Councilmember Jim Griffith

ABSENT:

None

STAFF PRESENT:

City Manager Gary Luebbers
Assistant City Manager Robert Walker
City Attorney David Kahn
Director of Finance Mary Bradley
Director of Community Development Hanson Hom
Director of Public Safety Don Johnson
Director of Public Works Marvin Rose
City Clerk Kathleen Franco Simmons
Deputy City Clerk Lisa Natusch

CLOSED SESSION REPORTS FOR APRIL 6, 2010

Closed Session pursuant to Government Code Section 54956.9(a) - Conference with Legal Counsel - Existing Litigation

Closed Sessions pursuant to Government Code Section 54956.8 - Conferences with Real Property Negotiator

Vice Mayor Moylan reported Council discussed three items in Closed Session; Council took action and gave direction on two of the items.

SPECIAL ORDER OF THE DAY – Annual Fire Safety Poster Contest Awards Presentation

SPECIAL ORDER OF THE DAY – Arbor Day Proclamation

PUBLIC ANNOUNCEMENTS

Councilmember Whittum announced Sunnyvale Earth Day events celebrating Earth Day's fortieth anniversary.

Councilmember Whittum announced the annual Tip-A-Cop Special Olympics fundraiser.

Ray Ramsey, Human Resources Coordinator for the Fremont Union High School District, invited Council and the community to the Fremont High School Community Showcase and Barbeque.

Jeanine Stanek, Sunnyvale Historical Society, announced the Spring Teas at the Heritage Park Museum.

Richard Kolber, Democratic Club of Sunnyvale, announced their California Budget Challenge.

Councilmember Swegles announced he and other Councilmembers will be reading books at the Sunnyvale Public Library as part of National Library Week. Mayor Hamilton added she will perform a reading as well.

CONSENT CALENDAR

Vice Mayor Moylan moved and Councilmember Spitaleri seconded the motion to approve the Consent Calendar.

VOTE: 7-0

- 1.A. Approval of Council Meeting Minutes of March 23, 2010
- 1.B. Approval of Information/Action Items – Council Directions to Staff

Fiscal Items

- 1.C. MOTION List of Claims and Bills Approved for Payment by the City Manager – List
RTC 10-089 No. 497 and 498

Staff Recommendation: Review the attached lists of bills.

- 1.D. MOTION Increase Construction Contingency for Murphy Avenue Utility and
RTC 10-096 Streetscape Project (TR-08/02-09)

Staff Recommendation: Approve an increase in the construction contract contingency with Joseph J. Albanese as follows: in the amount of \$60,000, from the Murphy and Evelyn Sewer Infrastructure Project, to maintain sufficient construction contingency for completion of the project without delay; and in the amount of \$185,000, from the Murphy Avenue Streetscape project (826810), to extend streetscape improvements into the intersection at Murphy Avenue and Washington.

- 1.E. MOTION Approval of Budget Modification No. 26 to Appropriate Department of
RTC 10-069 Homeland Security Training Grant Funds in the Amount of \$8,258

Staff Recommendation: Approve Budget Modification No. 26 to appropriate the State Homeland Security Grant Program funds into a special project to offset costs incurred.

- 1.F. RESOLUTION Authorize the Issuance of Revenue Bonds to Finance Water and
RTC 10-097 Wastewater Capital Projects and Approve a Financing Team

Staff Recommendation: Authorize staff to proceed with the issuance of Water Revenue Bonds and Wastewater Revenue Bonds, approve the financing team, and authorize the city manager to enter into contracts with Jones Hall for bond counsel and disclosure services in substantially the same form as the attached.

Contracts

- 1.G. MOTION Amendment of Outside Counsel Agreement for Fair Oaks Affordable
RTC 10-086 Housing Matters

Staff Recommendation: Approve a Third Amendment to increase the contract with law firm of Stein & Lubin, LLP in an amount not to exceed a total of \$155,000.

Contracts: Sunnyvale Works!

- 1.H. MOTION Award of Sunnyvale Works! Bid No. F0901-72, Milling and Patching 2011
RTC 10-092 Phase 2, and Approval of Budget Modification No. 28

Staff Recommendation: Award a contract in an amount not to exceed \$208,994 to ABSL Construction for the subject project and authorize the city manager to execute the contract when all necessary conditions have been met; approve a 10% project contingency in the amount of \$20,899; and approve Budget Modification No. 28 to provide funding for the project.

- 1.I. MOTION Modify an Existing Contract and Approval of New Contract to Provide
RTC 10-091 Recreational Gymnastics Instruction (F0903-85)

Staff Recommendation: Authorize modification of an existing contract to California Sports Center in an amount not to exceed \$34,000, award a new contract for a two year period and authorize the city manager to extend the contract for one additional one year period, provided services and pricing are acceptable to the City.

Other Items

- 1.J. MOTION Countywide AB 939 Fee and Household Hazardous Waste Agreements
RTC 10-074 for FY 2010/2011

Staff Recommendation: Authorize the city manager to execute both the Agency Agreement for Countywide AB 939 Fee and the Agency Agreement for Countywide Household Hazardous Waste Collection Program (with an augmentation amount of \$239,700) and continue to delegate to the city manager the authority to approve an increase of up to 20% in the City's augmentation amount.

- 1.K. ORDINANCE Adoption of Ordinance No. 2917-10 Adding Chapter 3.70 (Sunnyvale Municipal Utilities Revenue Bond Law) to Title 3 (Revenue And Financing) of the Sunnyvale Municipal Code Relating to the Financing of Public Utility Enterprises

Staff Recommendation: Approve second reading of Ordinance No. 2917-10

- 1.L. MOTION Board and Commission Annual Work Plans
RTC 10-095

Staff Recommendation: Approve the 2010 board and commission master work plans as submitted.

- 1.M. MOTION Approval of NOVA Local Workforce Investment Area Five-Year Strategic
RTC 10-087 Local Plan Modification for Program Year 2009-10

Staff Recommendation: Approve the NOVA Local Workforce Investment Area Five-Year Strategic Local Plan Modification for Program Year 2009-10.

STAFF RESPONSES TO PRIOR PUBLIC COMMENTS

None.

PUBLIC COMMENTS

None.

PUBLIC HEARINGS/GENERAL BUSINESS

2. MOTION 2009-0756: Appeal by the Applicant of the Decision by the Planning
RTC 10-070 Commission to Deny the Use Permit for a Child Care Center for up
to 24 Children at 260 S. Mary Avenue

Mayor Hamilton disclosed that she met with the applicant.

Planning Officer Trudi Ryan presented the staff report.

Planning Officer Ryan confirmed for Councilmember Swegles that ramps will be required on the front exterior of the home that would not be inconsistent with some single-family homes. It's the use of the building that makes it a commercial facility, not the modifications. Planning Officer Ryan stated it would be possible in the future for it to return to residential use if they discontinued exercising the use permit.

Planning Officer Ryan confirmed for Councilmember Swegles that as long as the property is used for a day care it would be commercial; the use permit could be discontinued and it could again be used as a residence without the need of a further permit because residential use of the property is permitted without any permits.

Councilmember Griffith confirmed with Planning Officer Ryan that if the appeal was granted and the owner sold the property, the use permit would go with the property, not the owner. Planning Officer Ryan confirmed for Councilmember Griffith that after the one year period the use would be subject to an administrative hearing to decide if it should be continued as

a commercial day care facility and whether to increase the number of students to 24. Planning Officer Ryan stated the applicant or any interested party can appeal the administrative hearing decision.

Planning Officer Ryan confirmed for Councilmember Whittum that the site would meet the parking requirements for 24 students and that a masonry wall or fence with acoustically rated fence could be considered to address noise issues. Councilmember Whittum inquired if more stringent conditions could be considered to address traffic concerns. Planning Officer Ryan stated a generic condition may be more appropriate than something that is not flexible for the needs of the client.

Planning Officer Ryan confirmed for Councilmember Lee that the staff recommendation has been reviewed with the applicant.

Vice Mayor Moylan clarified the use of the terms “child care center” and “preschool” in various documents.

Public hearing opened at 7:46 p.m.

William Maston, project architect, provided a PowerPoint presentation.

Shanam Saini, owner/appellant, Windsor Academy, clarified for Councilmember Swegles that there will be two teachers who will use the garage for parking.

Councilmember Swegles stated the request is to include a sign on the property, which would make the property no longer look residential. Maston stated if having a sign was detrimental to the residential character it is something that could be considered.

Saini stated the property will look like a house and maintain the look and feel of the neighborhood.

Saini answered questions from Councilmember Griffith regarding the daily schedule and confirmed that the drop-off schedule is staggered with parents dropping off anywhere between 8 a.m. – 11 a.m.

Saini confirmed for Councilmember Swegles that there are not always 14 children at the school due to illness and vacations. Saini confirmed that about half the families on the waiting list live nearby and would be walking to the school; four or five families on the waiting list have second children and would be using the same mode of transportation.

Saini stated there is a lot of interest from the neighborhood because there are not schools for children under three in that area.

Maston stated there are two dedicated parking spaces for staff, plus the driveway drop off, and three parking spaces along the street which adequately meet the traffic requirements consistent with the input received from the Department of Public Works and Planning staff. He stated the redesign of the site and adding the two additional parking spaces were done specifically to address this potential concern.

Matilda Hughes stated there is a lack of quality child care in downtown Sunnyvale and changing the use permit to 24 will fill a gap in child care needs in the area. Hughes stated

both her children go to Windsor Academy and she is very happy with it.

Councilmember Swegles requested that the speakers state whether they are a current client or a potential client.

Vice Mayor Moylan stated the question is not whether Windsor is doing a good job, but whether this is an appropriate place for the facility to operate.

Anne Langer stated she carpools with a Windsor Academy employee and has never had a problem with parking or merging back into traffic.

Patrick Hughes, client of Windsor Academy, stated there is a lack of quality child care in downtown Sunnyvale and the need for this type of facility is only going to increase. Hughes also stated that the hiring of additional teachers will create jobs in Sunnyvale.

Mark Andrews, potential client of Windsor Academy, stated it is difficult for parents to find quality child care within walking distance from their home.

Councilmember Swegles disclosed that he is friends with Mr. Andrews and his wife and has discussed the situation with them.

Kristi Chiocco, client of Windsor Academy, stated parking and traffic are not a problem at Windsor.

Ketan Banjara, client of Windsor Academy, stated that the school is well run and the look and feel of a home is important to him for the development of his son.

Hei-Ming Wat, potential client of Windsor Academy, lives five minutes away and has never seen issues with traffic.

Ashwin Mendonca, previous client of Windsor Academy, stated he refers others to the school and he never saw any issues with the parking.

Subir Bhatt, potential client on the waiting list, stated he would be walking his son to the school, likes the home atmosphere and hopes Council will grant the expansion.

Lynn Duncan, client of Windsor Academy and senior human resources professional at a business at 100 Mathilda Place, discussed the importance of quality child care to attract and retain employers.

Jennifer Ayre, neighbor and client of Windsor Academy, stated she walks to the school every day and thinks the use of this property is a fantastic addition to the neighborhood.

Charlene Marini, neighbor and client of Windsor Academy, stated she walks her daughter to school and the quality of care at Windsor is outstanding.

Leigh Odum and Khader Abdot-Hafez, clients of Windsor Academy, stated they like the neighborhood feel and the traffic and parking have not been a problem at the time they drop off their child in the morning.

Erica McClure, client of Windsor Academy, stated that with the staggered schedules the parking would not be an issue with an expansion. McClure added that when she arrives she often cannot hear the children playing in the backyard; therefore the noise is not an issue.

Shalini Aggarwal, neighbor and client of Windsor Academy, stated she walks her daughter to school and has never observed problems with the parking. Aggarwal added that expanding the school would be beneficial for the community.

Anisa Rangwala, client of Windsor Academy, stated she has been happy with the loving and caring environment at Windsor and she hopes they will be able to expand.

Dana Wu, neighbor and volunteer at Windsor Academy, stated she has never seen issues with traffic, the school is a learning-centric environment and the children are taken outside in groups.

Vaibhavi Gala, client of Windsor Academy, stated that finding quality child care for children under two is particularly difficult and Windsor Academy has met her needs.

Ray Crump, real estate broker, stated that one of the nice things about Sunnyvale is its residential character and the change in character of this residence does not seem to be in keeping with that. Crump stated the disclosures involved in a real estate transaction require sellers to disclose issues in their neighborhood to potential buyers and the school would devalue the adjoining properties.

Councilmember Spitaleri inquired if there has been a decrease in market value in that area because of the existing school.

Jeeta Gandhi, client of Windsor Academy, stated that expanding the school would expand the possibility of other similar facilities opening and parking has not been an issue. Gandhi added that she was not aware the property was a school until she was told about it.

William Maston, architect, stated the school is an asset to the community and neighborhood and not a devaluation to the neighborhood.

Shanam Saini, owner/appellant, Windsor Academy explained that according to state regulations there is enough space for 29 children at the school. Saini stated that they are asking for 24 because they think it is a reasonable number in terms of parking, traffic, and the other issues. Saini stated that if they have less than 24 children there would be less than eight children in each age category which does not make sense from a teaching perspective. Saini added that because they are going from a home day care license to a child care center license, modifications must be made to the building therefore with less than 24 children the costs would not be recovered in a reasonable time frame.

Councilmember Swegles inquired about the recent study regarding traffic on Mary Avenue and the projection on future increases. Director of Public Works Marvin Rose stated he did not have the information available with him.

Public hearing closed at 8:59 p.m.

Planning Officer Ryan confirmed for Councilmember Spitaleri that if the property was sold the only type of business allowed at this property would be a child care facility and that if

there was a gap in time the use permit would lapse and it would revert back to a single family home.

MOTION: Councilmember Whittum moved and Councilmember Spitaleri seconded the motion to approve Alternative 2, Grant the appeal and approve the use permit subject to the conditions in Attachment B including the following condition replacing #4a: The maximum capacity for the day care center shall be limited to 24 children and two employees. Any proposed expansion of the use requires approval by an Administrative Hearing.

Councilmember Whittum stated that affordable day care is the lowest scored item on the Resident Satisfaction Survey. Councilmember Whittum stated it contributes to economic prosperity, attraction of employers and residents, and walkable child care is a public good. Councilmember Whittum stated there is a one year period to evaluate the use at which time options can be imposed. Councilmember Whittum stated there is a reasonable basis to assume the use is consistent with the adjoining uses and beneficial to them.

Councilmember Swegles expressed concern regarding raising the number to 24 right away due to the ramp that may extend to the parking area, traffic, and taking a residential home and converting it to a business with the possibility of a sign.

Vice Mayor Moylan stated the benefits of the project are the need for quality child care for residents and businesses, and the fact that the speakers are very happy with the services provided at Windsor. Vice Mayor Moylan stated the sacrifices to consider are the appearance of the property, which does not sound like it will change in a significant way, the disclosure issue; two of the three immediate neighbors wrote letters regarding the property; one neighbor feels it is a benefit to his property, the other thinks it is a problem and opposes the expansion even to 18. Vice Mayor Moylan stated he disagrees with the architect's comments that noise from the shopping center will be louder than noise from the school. Vice Mayor Moylan stated the more significant issue is the traffic and parking issue which Council has been hearing about for two years from residents of Mary Avenue. Vice Mayor Moylan stated a 71% increase in use has to increase the traffic to some extent. Vice Mayor Moylan stated that every land use in the City is supposed to take care of all of its parking needs entirely. Vice Mayor Moylan stated the ideal way for this facility to expand would be to find a bigger piece of property in the neighborhood. Vice Mayor Moylan stated he opposes the motion and would prefer Alternative 1.

Councilmember Spitaleri stated he supports the motion due to the strong potential of losing adequate preschools and day care centers. Councilmember Spitaleri added that the expense to accommodate up to 18 would not be economically feasible for the school.

Councilmember Griffith stated he does not like the notion of spot zoning or converting something permanently from residential to commercial. Councilmember Griffith stated an element of sustainability is creating and providing for amenities that are walkable in the neighborhood. Councilmember Griffith expressed concerns about traffic including the issue of left hand turns. Councilmember Griffith stated he could support Alternative 3, but he does not support the motion.

Mayor Hamilton stated she has concerns about the project; she shares the concern that the property is being turned into a commercial property for the foreseeable future, but the benefits vastly outweigh the concerns. Mayor Hamilton stated she does not think the traffic is a justification for denying the use and additional parking is being added. Mayor Hamilton

stated there is a lack of child care for infants. Mayor Hamilton stated she would not be in favor of the project if it was a residential property on an interior street where traffic would be brought to a street that would not otherwise see it. Mayor Hamilton agreed with Councilmember Spitaleri that it does not seem right to make the change for a year for something that is going to require a lot of interior structural changes. Mayor Hamilton stated that she was concerned that there is not going to be someone living in the house, but someone buying the house in the future could convert it back to a residence and she thinks it is a benefit to the neighborhood.

VOTE: 3 - 4 (Councilmember Lee, Councilmember Griffith, Vice Mayor Moylan and Councilmember Swegles dissented.)

Motion failed.

MOTION: Councilmember Lee moved and Councilmember Griffith seconded the motion to approve Alternative 3, Grant the appeal and approve the Use Permit subject to the conditions in Attachment B including Condition of Approval 4a limiting the maximum capacity to 18 children and requiring a 1-year public review of the facility operation, with allowance to consider an increase to 24 children at that time, and add the condition of removal of any signage of commercial child care.

Councilmember Lee stated there is a lack of quality child care in the City, but the question is whether a single family home is a compatible use with the neighborhood. Councilmember Lee stated that he has a problem with the house and allowing up to 24 kids from 14. Councilmember Lee stated he thinks a one-year trial period is a good way to see how it will work and after the one-year period it can be increased to 24 if the experiment is successful.

Councilmember Swegles expressed concern about the left hand turn situation but stated trying the increase for one year to see if it does become a problem it can be revisited at that time.

Mayor Hamilton confirmed with Community Development Director Hanson Hom that at the end of one year the issue would be considered at an Administrative Hearing, which can be appealed to the Planning Commission, and the Administrative Hearing Officer has several options: reduce the number back down to 14, continue at 18 with additional conditions, or approve increasing the number to 24, with additional conditions. Director Hom confirmed for Mayor Hamilton that the time frame would start at the Certificate of Occupancy date.

VOTE: 5 - 2 (Vice Mayor Moylan and Mayor Hamilton dissented)

**3. RESOLUTION Approval of Downtown Sunnyvale Business Improvement District
RTC 10-073 Annual Report for FY 2009/2010 and Adoption of the Resolution of
Intention to Reauthorize the Downtown Sunnyvale Business
Improvement District for FY 2010/2011**

Economic Development Manager Connie Verceles presented the staff report.

Councilmember Swegles stated there were a number of events downtown last year, and inquired if most of the activities were going to continue or expand once Murphy Avenue reopens. Joel Wyrick, Executive Director of the Business Improvement District (BID) stated there would not be an expansion; the status quo would be maintained from last year. Wyrick

stated the four events are the Halloween Pet Parade, the Holiday Tree Lighting, Summer Series Music and Market and Jazz and Beyond.

Mayor Hamilton stated the City provided about \$60,000 worth of seed money to get started a few years ago and one of the main issues at that time was the street sweeping and street cleanup. Mayor Hamilton inquired if there is an estimate as to when there will be a contribution from the merchants to help keep the street clean. Wyrick stated the Board is not opposed to some of their money going toward this, but the income that was expected from the Town Center is a reason it cannot be done this year.

Public hearing opened at 9:35 p.m.

No speakers.

Public hearing closed at 9:35 p.m.

MOTION: Vice Mayor Moylan moved and Councilmember Swegles seconded the motion to approve the Business Improvement District Annual Report for FY 2009/2010 and adopt the Resolution of Intention and schedule a public hearing for May 11, 2010 to reauthorize the Business Improvement District for FY 2010/2011 for Downtown Sunnyvale.

VOTE: 7 - 0

**4. MOTION City Positions Regarding Fremont Union School District Measure B
RTC 10-085**

Assistant City Manager Robert Walker presented a brief staff report.

Councilmember Lee confirmed with Assistant City Manager Walker that the election will be by mail only on May 4.

Public hearing opened at 9:36 p.m.

Michael Goldman provided handouts and discussed superintendent compensation, election costs, and a letter sent to parents of Fremont Union High School District parents and suggested Council wait.

Councilmember Whittum inquired of Goldman as to what happens if the measure does not pass on this ballot. Goldman stated it was defeated on the last ballot and there is mail-in opportunity in August, a November election and they will keep coming back.

Vice Mayor Moylan inquired about Mr. Goldman's comments regarding the compensation data on the Civil Grand Jury Report handout.

Tom Avvakumovits, Director of Human Resources, Fremont Union High School District spoke on behalf of Measure B and encouraged Council to support the measure.

Councilmember Griffith confirmed that persons age 65 or older are currently exempt from the tax and the exemption has been extended to the disabled. Councilmember Griffith confirmed with Avvakumovits that one of the provisions of accepting Title 1 dollars is opening up the schools to open enrollment and it would cost the district more money to bus

students from one school to the next, therefore it would be a waste of taxpayer dollars to take the money if it would cost more to accommodate the provision. Avvakumovits added they have supported the programs that Title 1 provided by taking dollars from other areas and cutting back so they can continue providing the resources they do for Fremont High School.

Public hearing closed at 9:49 p.m.

MOTION: Councilmember Spitaleri moved and Councilmember Swegles seconded the motion to adopt a supporting position on Measure B.

Councilmember Spitaleri stated this is not an increase but a continuation of the tax and maybe some of the propositions passed in the past need to be revisited, but until that happens, we need to support our schools. Councilmember Spitaleri stated that although his children are no longer in the school system in Sunnyvale, someone paid for it while they were going, and he feels he has an obligation to continue helping the school system.

Councilmember Griffith stated the question is whether the City is better or worse off if this passes, and he thinks the evidence shows that as a community we are stronger if our public schools and our public library are strong and effective. Councilmember Griffith stated he sees this damaging our public schools if it fails to pass and for that reason urges Council to support it.

Councilmember Lee stated he supports making sure the public school system is healthy, and one of the reasons the housing costs are high in Sunnyvale has to do with the fine school districts we have.

Councilmember Whittum stated he would abstain from the vote and the arguments and issues raised by the public are worth discussing and there is not a good platform or venue for them to be discussed except for the Council meeting which is not necessarily the right place. Councilmember Whittum stated that if Council were to support things such as media, public access television and other ways for the community to communicate on these issues, it would be beneficial.

Mayor Hamilton stated Council cannot solve the problems in Sacramento but can show that as a community we support our school districts, students and the economic vitality of the region.

VOTE: 6 - 0 (Councilmember Whittum abstained)

**5. COUNCIL Consider Revisions to Council Policy 7.3.10 Regarding Selection of
DISCUSSION Mayor and Vice Mayor (Continued from March 23, 2010)**

Mayor Hamilton provided a report.

Councilmember Griffith thanked the Mayor for presenting the items for clarification at the beginning in the format of a consent calendar, but questioned why Item 8 was included. He stated that Item 8 is saying that the Council does not intend to make the audience part of the public record as they would not have access to the individual Councilmembers ranked-choice votes. He stated that the only way the audience would have access to that information is after the fact. Mayor Hamilton clarified that the rankings will be included in the

meeting minutes.

Councilmember Griffith stated whether or not the Councilmembers' votes are read by the City Clerk, he does not want a situation created where the City Clerk does not have to record the individual votes. He stated the benefit is that the people watching know exactly what happened and why, as opposed to having to find out after the fact. Councilmember Griffith stated he has a fundamental problem with the public not knowing why something happened in a meeting, and recommended inclusion of a requirement for the City Clerk to put it on a piece of paper and display it over the TV at a minimum.

Councilmember Swegles stated with regard to Item 10, it could be modified to provide that if there are only two candidates the formal method of voting would be up or down, and if three or more, the method of voting would be by ranked choice. Mayor Hamilton responded that is the current policy.

Councilmember Spitaleri stated he would prefer to have a work session to discuss the questions and concerns in detail. He stated he has a concern about Item 1 prohibiting a Councilmember from refraining from voting.

Vice Mayor Moylan stated the main reason for the proposed revision in Item 1 was to ensure there would not be a tie or 3-2-2 vote. Vice Mayor Moylan stated with regard to Councilmember Griffith's comment regarding the reporting of the rankings was to remove the requirement for the City Clerk to read the votes. He indicated he did not object to having the City Clerk display the votes on the screen for the audience.

Vice Mayor Moylan stated Items 11 and 12 to require a study session prior to selection of the Mayor and Vice Mayor were proposed to try to mitigate concerns about violating the Brown Act. Vice Mayor Moylan stated Item 12 is to clarify language which he originally drafted with the intention of allowing each member to nominate more than one person. He indicated the language he drafted with that intention was subsequently interpreted otherwise by the City Attorney.

Vice Mayor Moylan stated he supports Alternative 6, and either Alternative 4, which he proposed, or Alternative 5. He stated the proposals are mostly clean-up and to decide whether to keep the option of ranked-choice voting when there are three or more candidates. He stated other purposes for the proposed changes were to decide whether to set up a formal structure to provide an opportunity for everyone who is interested in serving in these positions to hold a study session for discussion, and to decide whether to make it explicit whether a member may nominate only one or more than one person.

Councilmember Lee recommended continuing this item due to many changes which have been made and the receipt of the most current version on the dais this evening. He stated he agrees with Councilmember Spitaleri that it is not a timeliness issue and could be continued to another night to allow for more input.

Councilmember Griffith stated he agrees with Councilmember Spitaleri and commented that it would have been useful to see a proposed draft with strikethroughs in context so the changes could be seen. He stated with the budget and other issues through June, there is no urgency of completing this before January. He stated if this is to be held as a study issue, he would propose it be held no sooner than August.

Councilmember Spitaleri stated he wasn't necessarily thinking about having it as a study session, but to have a meeting in the West Conference Room to discuss the recommendations without tying up staff time.

Councilmember Griffith stated staff made a strong argument at the last meeting when Council attempted to make a formal subcommittee that however minimal it was, staff time would be involved in something like that. This would involve noticing and participation by full Council would require some staff involvement. He stated he is interested in being deferential to staff's situation.

Vice Mayor Moylan suggested this matter be continued to the next Council meeting, which should not require additional staff time except to put the policy into a strikethrough version.

Public hearing opened at 10:17 p.m.

No speakers.

Public hearing closed at 10:17 p.m.

MOTION: Councilmember Whittum moved and Councilmember Lee seconded the motion to continue the item to the end of the April 27 Council meeting.

Mayor Hamilton stated Councilmember Spitaleri's original suggestion was to put this on as a study session in the conference room. She stated her preference would be to hold it as a study session for discussion, and if consensus is reached, put it on the Consent Calendar for formal ratification.

Councilmember Whittum stated there is no harm in holding it as a study session on the same day if desired, but that he does not see this as a Consent Calendar item.

Vice Mayor Moylan stated he supports Councilmember Whittum's motion.

VOTE: 4 - 2 (Councilmember Griffith and Spitaleri dissented, Mayor Hamilton abstained)

COUNCILMEMBER REPORTS ON ACTIVITIES FROM INTERGOVERNMENTAL COMMITTEE ASSIGNMENTS

Councilmember Swegles provided a report of the meeting of the Council on Aging Monday at which the main topic was current initiatives impacting seniors. He stated the Council on Aging is very concerned about San Jose eliminating all of the senior programs, including meals at the senior center in the needy areas. He reported a presentation was given regarding the different services the Council on Aging provides to the cities, and stated the City of Sunnyvale is well-represented by the care coordinator at the senior center. Councilmember Swegles reported five senators and assembly members represent this area in Sacramento on behalf of the Council on Aging.

Councilmember Griffith provided a report regarding the General Plan Consolidation Committee meeting last week. He stated the committee is considering holding a community outreach meeting in June or July to receive public input once they have a better grasp of the consolidated general plan, ideas about the format, and presentation.

Mayor Hamilton reported Governor Schwarzenegger attended the Calisolar company ribbon-cutting event to highlight the expansion of the facility. She reported she welcomed him and extended an invitation to come back.

Councilmember Swegles reported he attended the unveiling of the Tasman Fair Oaks monuments earlier and stated it was a great event.

NON-AGENDA ITEMS & COMMENTS

Vice Mayor Moylan reported he had occasion to be involved in a green business that is considering relocating to Sunnyvale and thanked the city manager and the director of business development for their quick turn-around on the matter.

INFORMATION ONLY REPORTS/ITEMS

- Tentative Council Meeting Agenda Calendar
- Draft Minutes of the Bicycle and Pedestrian Advisory Commission Meeting of March 18, 2010
- RTC 10-094 Opportunity for Council to Appeal Decisions of the Planning Commission of March 22, 2010 and the Administrative Hearing of March 24, 2010

ADJOURNMENT TO THE FINANCING AUTHORITY

Mayor Hamilton adjourned to the Financing Authority at 10:23 p.m.

Kathleen Franco Simmons
City Clerk